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Date
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Future System Operation Team
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Dear teams,

Consultation on proposals for a Future System Operator role

Thank you for the opportunity to share our views on the proposed Future System Operator role.

This response is on behalf of SP Energy Networks (SPEN), who represent the transmission licensee of SP Transmission plc, as well as the distribution licensees of SP Distribution plc and SP Manweb plc. SP Transmission owns, develops and maintains the onshore electricity transmission network in the south of Scotland. We also own and operate the electricity distribution networks in the south of Scotland (SP Distribution) which serves two million customers, and Merseyside and North Wales (SP Manweb) which serves one and a half million customers.

As an owner of both onshore transmission and distribution networks, we are a key stakeholder of the existing ESO and fully recognise our role, alongside the system operator, in facilitating the delivery of Net Zero targets. We are supportive of the creation of the FSO and agree on the need for a centralised body in light of Net Zero ambitions. However, we have serious concerns with some of the roles proposed for the FSO. We have outlined our views in this covering letter and the attached Annex 1, which contains our detailed response to the consultation questions.

At this stage, the consultation gives little detail on how the FSO will be regulated and incentivised by Ofgem. The regulatory and incentive framework will impact on how appropriate it is for the FSO to carry out certain roles, for example, an advisory role on certain issues. For this reason, we reserve our position on many of the roles of the FSO, envisaged by the consultation, until the proposed regulatory framework becomes clearer. However, we consider certain proposed enhanced FSO roles, including enhanced network planning and the undertaking of network feasibility studies, as proposed in Ofgem's recent Early Competition consultation¹, are not appropriate to be delivered by the FSO under any regulatory framework and we would urge BEIS and Ofgem to reconsider these aspects.

¹ <https://www.ofgem.gov.uk/publications/consultation-our-views-early-competition-onshore-electricity-transmission-networks>
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Increased Network Planning Responsibilities

No single industry body has the skills and experience required to develop both onshore and offshore network reinforcement options that will be sufficiently robust, and nor could a single body acquire such skills without significant time, duplication and inefficiency. We are therefore of the view that the FSO should not be given increased network planning responsibilities, as this is not expertise or experience which the ESO currently holds.

To ensure that optimal system decisions are made, it is crucial that the bodies best placed to deliver decision making and network planning functions act in collaboration. Looking to the future, a more strategic and collaborative approach to the strategic planning of energy infrastructure is required. In Scotland, this approach is already happening organically through the formation of the Scottish Government's Major Energy Projects Group, the ScotWind Roundtable and strategic planning from Marine Scotland's sectoral plan (which then informed Crown Estate Scotland's ScotWind leasing sites). The ScotWind Roundtable has brought these elements together for the purpose of delivering ScotWind offshore wind developments by 2030. This is a similar approach to the Electricity Networks Strategy Group (ENSG), co-chaired at the time by DECC² and Ofgem, which met in 2009 to address the long-term challenges of connecting renewable generation. To achieve Net Zero, we believe policy makers, the FSO and networks companies must work together to create greater certainty in the long term strategic planning of the network. This approach will best utilise the existing experience within the industry, removing the need to develop new capabilities and expertise within a single central planner, and the associated delays, costs and risks.

If the proposed changes are implemented, the consultation notes it is possible in the future that the FSO could take on a stronger role in *"electricity network planning, potentially recommending network designs and tendering for and/or contracting with parties to build and operate network assets,"*. This would be a major change to the current regulatory framework and would introduce significant uncertainty around the parameters for our network planning. Introducing this level of uncertainty and unpredictability will risk impairing TOs' ability to attract the required investment to deliver Net Zero.

Our recent RIIO-T2 business plan has many examples where only our detailed knowledge of the history, performance and condition of assets to a component level has allowed us to profile condition-related interventions to efficiently dovetail with reinforcement works. This has allowed us to defer some expenditure but also to optimise system outages, creating significant consumer savings in constraint costs. An FSO would simply not have the requisite knowledge or experience to make these complex decisions. In making informed decisions to delay some works for greater consumer benefit, we are accountable to Ofgem and to our customers. An FSO making similar decisions, relating to existing TO assets, would need to assume complete responsibility for that decision.

The importance of local network knowledge and relationships with local communities, key stakeholders and customers also cannot be underestimated in delivering network planning responsibilities effectively. This includes a strong understanding of planning systems which differ across the GB system. A centralised FSO is unlikely to have the ability and resources to develop such relationships with local communities and regions throughout GB.

Industry skills and experience

Highly technical network planning roles are not currently delivered by the ESO, so staff would need to be recruited, either from within the industry or externally by the FSO. The TOs have significant experience in designing and planning their networks and are strongly incentivised through the RIIO price

² DECC refers to the Department for Energy and Climate Change, which was absorbed into the newly created Department for Business, Energy and Industrial Strategy (BEIS) in 2016.

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controls to do this in the most efficient way possible. This is not a skillset that can be easily lifted and moved within the industry – it has developed as a result of the TOs' unique role in the industry, and the synergies between delivering system design, network and project planning, including environmental planning and consenting, undertaking network feasibility studies and commercial solutions simultaneously. Passing some of these roles to the FSO will result in less efficient delivery and a duplication of resource and expertise, ultimately resulting in higher costs to consumers. Furthermore, the FSO would be competing in a resource market that is already severely limited. Skilled engineers are difficult to recruit, and significant industry changes could increase existing resource pressures on developers, network owners and the system operator.

Accountability

In any system, where detailed network planning roles are carried out by the FSO, defining accountability and the allocation of risk will be key. The network companies are incentivised and penalised, under the RIIO framework, against their network performance and reliability. To manage the risks of penalty associated with faults and loss of supply, the TOs carefully plan their networks and conduct network feasibility studies when connecting equipment. If, as is being suggested by BEIS and Ofgem, that the FSO assumes greater responsibilities for network planning and the undertaking of feasibility studies, network companies would no longer have full control of the design and operation of their network, and therefore could not be held accountable for network issues caused by FSO decisions or processes. Any enhanced network planning role for the FSO needs to carry the associated risks, penalties, liabilities and reputational damage from local stakeholders and customers, that the network companies face, when delivering these roles. In practice, the proposed scenario would create a complex risk-sharing framework and result in unclear attribution when loss of supply events occur.

Therefore, the suggestion of giving network planning responsibilities to the FSO would risk significantly impacting TOs' ongoing ability to comply with their statutory obligations to properly coordinate the system and ensure it operates efficiently and economically. If this proposal is progressed, all aspects of the regulatory framework will require to be reviewed to ensure that it appropriately reflects the changes in responsibilities and risks. As an example, the SO-TO Code and incentives such as Energy Not Supplied will all require review.

Policymakers must understand that the TO roles in network planning, system design and network feasibility studies are highly connected, and a new FSO cannot be given parts of these roles without increasing operational risk on the network, significantly undermining the existing regulatory framework, and potentially increasing costs to both present and future consumers.

Dispute Resolution proposals

The consultation suggests the case is being considered for consolidating or streamlining dispute resolution roles within the FSO, potentially including the FSO taking on a role to determine disputes between industry parties. In our view, dispute resolution between parties is a key role of the regulator and must remain with Ofgem.

The roles in network planning, system balancing and competition being proposed for the FSO mean that it cannot be considered an independent arbiter of disputes. The benefits of reducing Ofgem's role in this area are not clear to us. Ofgem is an expert decision maker with extensive experience of presiding over disputes. It will also be essential that there remains a right to refer decisions of the FSO, acting in any of its other roles, for determination by Ofgem. Ofgem will therefore still need to retain a role in dispute resolution, and it appears to us to be inefficient to have two different bodies determining different types of dispute.

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Additionally, determinations by Ofgem can ultimately be judicially reviewed. If the FSO were to have a role in dispute resolution, it would be essential that parties also have a right to appeal its decisions.

Distribution Coordination

We agree that the FSO and DNOs should work more closely, and that many whole systems opportunities and benefits can be unlocked through coordination at an FSO-DNO/DSO level. To effectively balance the system at lowest cost to consumers, the FSO and DNO/DSO will need to share significantly more data and create new, digitalised operational systems. SPEN has committed to developing its Engineering Net Zero platform to enable the sharing of data and support smarter DSO and FSO functions.

SPEN is currently finalising our DSO Strategy for inclusion in our final RIIO-ED2 business plan, which we forecast to deliver benefits of up to £334m by delaying or avoiding network reinforcement using non-network solutions.³ These new DSO functions, which each DNO is carefully assessing and engaging with stakeholders on, must be allowed time to develop.

Advisory Role

As the system operator, the FSO will have a unique place in the energy system and, in turn, a valuable understanding of the operation of the energy system. Advice should be sought from those parties best placed and experienced to offer it. It would be short-sighted for such a role to fall to just one party. The FSO cannot have the full picture of the energy system; no individual party can. Areas where the FSO is not best placed or experienced to offer advice include detailed network planning and network engineering solutions that the TOs are responsible for, and areas requiring a deep understanding of the challenges faced on the distribution networks as well as asset-related knowledge and experience.

The FSO should be accountable not only to BEIS and Ofgem, but to the devolved administrations too, ensuring it is also supporting the Net Zero ambitions of the Scottish and Welsh Governments.

In our view, the advisory role of the FSO ought to be as a communicator of system views, working in collaboration with bodies and stakeholders across the energy system to build messaging and advice in the interests of consumers and delivering Net Zero.

Transitional implementation in line with legislative framework

We support a transitional, phased approach to implementation of the FSO. We agree that the current roles of the ESO should be the first to be taken over by the FSO. It will be vital that the way the FSO is implemented has no negative impact on networks and systems, especially regarding health and safety and security of supply.

Given the tight delivery timelines (including the 2030 offshore wind targets), proposals should be implemented only if it can be objectively demonstrated that they are consistent with, and will add value to, the delivery of these targets.

It is vital that the necessary primary and secondary legislation, as well as the associated licence and grid code changes, are all in place before there is any transition to the FSO. Any changes to the ESO's existing responsibilities must be developed and implemented in a way that respects the legislative and regulatory framework.

³ SPEN RIIO-ED2 Draft Business Plan, July 2021, pg. 52.

https://www.spenergynetworks.co.uk/userfiles/file/SPEN_RIIIOED2_DraftBusinessPlan_1JULYWeb.pdf

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It is also essential that any expansion of the FSO's role in the future is properly consulted on to avoid a gradual widening of the FSO's role without the necessary engagement with industry and stakeholders.

Delivering benefit to consumers

The proposals in this consultation are highly significant and will have implications for the energy system for years to come. All proposals must, therefore, robustly demonstrate consumer benefit. We do not consider that the Impact Assessment, accompanying this consultation, sufficiently justifies the extent of the proposals, nor does it adequately consider consumer benefit or detriment. We outline our specific concerns with the Impact Assessment in our response to the relevant consultation questions. Significant work is still required to more fully consider the impacts of the FSO proposals, and we are happy to work with BEIS and Ofgem on understanding the customer impact of these proposals.

Finally, the ESO has many talented and respected individuals working in it. It is very important for the industry, as a whole, that their skills and expertise in the energy sector are respected during this unsettling time for them. People must therefore be put at the heart of this process and treated properly before, during and after any transitional period to the FSO.

Please do not hesitate to get in touch, in relation to any of the points raised in this response.

Yours sincerely,



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